| | Application No. | Applicant(s) |
|---|---|---|
| ***Advisory Action***<br>***Before the Filing of an Appeal Brief*** | 10/621,324 | CHEN ET AL. |
| | Examiner | Art Unit | |
| | Ian N. Moore | 2616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>11 December 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

  b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

  (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

  (b) ☐ They raise the issue of new matter (see NOTE below);

  (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

  (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: <u>See Continuation Sheet.</u> (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

  The status of the claim(s) is (or will be) as follows:

  Claim(s) allowed: _____.

  Claim(s) objected to: _____.

  Claim(s) rejected: <u>1-24</u>.

  Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

  See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other. _____

Continuation of 3. NOTE: Claim 13 is amended in lines 4 to include "after said receiving step". This additions made to claim 13 raise new issues.

Continuation of 11. does NOT place the application in condition for allowance because:

Rejected claim 1 is amended by incorporating rejected claim 2, and thus amended claim 1 is still rejected. Rejected claim 5 is amended by incorporating rejected claim 6, and thus amended claim 5 is still rejected. Rejected claim 9 is amended by incorporating rejected claim 10, and thus amended claim 9 is still rejected. Rejected claim 13 is amended by incorporating rejected claim 2. Claim 13 is amended in lines 4 to include "after said receiving step". This additions made to claim 13 raise new issues as set forth above. Rejected claim 14 is amended by incorporating rejected claim 14, and thus amended claim 14 is still rejected. Rejected claim 17 is amended by incorporating rejected claim 18, and thus amended claim 17 is still rejected. Rejected claim 21 is amended by incorporating rejected claim 22, and thus amended claim 21 is still rejected.

Regarding claims 1-24, applicant argues that "..claims 1, 9 and 17 recites...the feature of detecting a failure along an "ingress region" of a primary path. Kanakubo is simply not pertinent...claims 1,9 and 17...the feature of allowing traffic to travel along the primary path when the failure is no longer detected. Dantu is simply not pertinent to this feature...claims 5,13 and 21...the feature of re-routing traffic from a primary path to an alternate path with devices that maintain the same quality of service as the primary path. Kanakubo does not disclose such an alternate path...nowhere in the excerpts relied on by the examiner is there mention of a quality of service (QoS) with respect to an alternate path, nor is maintenance of the same QoS implied by a "predefined static LSP"....claim 13 ...the forwarding table is used after receiving the failure message...Kanakubo is not pertinent because it in fact teaches a reverse sequence of steps..." in pages 6-8.

In response to argument, the examiner respectfully disagrees with the argument above.

With regards to claims 1,9,17, Kanakubo discloses a network device processing a method (see FIG. 1, LSR-P 1) comprising: means for detecting a failure (see FIG. 2, LSR 1 receiving/detecting fault occurrence a1) along an ingress region of a primary path (see FIG. 1, receiving fault indication along input/ingress side of normal LSP; see page 2, paragraph 25-30); and means for re-routing traffic (see FIG. 1, LSR-P performing LSP switching) from the primary path associated with an original IP address (see FIG. 1, from a normal path corresponding to protection point IP address) to an alternate path (see FIG. 1, to bypass LSP; see page 2, paragraph 29-36) which includes the device using a forwarding table (see FIG. 3, using LSP fault indication retrieval table) that includes Internet Protocol (IP) (see FIG. 3, IP address of the protection point) and Multi-Protocol Label Switched (MPLS) routing information (see FIG. 3, entry type and entry) while associating the original IP address to the alternate path upon detection of the failure (see FIG. 3, LSP fault indication retrieval table associates IP address of protection point to the bypass path when receiving fault indication; see page 3, paragraph 39-53); to allow traffic to travel along the primary path when the failure is no longer detected (see page 4, paragraph 56-57; see page 2, paragraph 34-35; when recovering from the fault, the packets routing over normal LSP (i.e. reverted protected switching)).

With regards to claims 1,9,17, Dantu discloses a network device (see FIG. 3, node 300/340/344/348; see FIG. 4-5, node 400/500; or see FIG. 6, Node 600/616/620/624) processing a method (see FIG. 9-11, Method) comprising: means for detecting (see FIG. 4, a combined system of processor 402, memory 404, and interface 412 performing examining/detecting; see col. 9, line 30 to col. 11, line 26; or see FIG. 5, a combined system of processor 502, memory 504, and interface 512 performing examining/detecting; see col. 12, line 39-64; see col. 13, line 30-40) a failure along an ingress region of a primary path (see FIG. 3, a failure occurs on a working path 332 between node 344 and 348; see FIG. 9, step 902; see FIG. 10, step 1002; see col. 9, line 30, line 63; see col. 17, line 10-20,45-55; see col. 10, line 25-36); and means for re-routing traffic (see FIG. 4, a combined system of processor 402, memory 404, storage 406 performing switching to protecting path ring in node 400; see col. 9, line 30 to col. 11, line 26; or see FIG. 5, a combined system of processor 502, memory 504, and storage 506 performing switching to protecting path ring in node 500; see col. 13, line 30-40) from the primary path associated with an original IP address (see FIG. 7, IP address 712/08) to an alternate path (see FIG. 3,6, protection path 336; see FIG. 7, a label 716 with path route) which includes the device using a forwarding table that includes Internet Protocol (IP) and Multi-Protocol Label Switched (MPLS) routing information (see FIG. 3, Forwarding table 312 and/or routing table 508; see FIG. 4, a combined system of memory 404 (e.g. routing table 404 A and forwarding table 404B) and storage 406 (e.g. table formation 406A and protection switching 406B) in node 400 includes IP addresses corresponding to MPLS labels; or see FIG. 5, a combined system of memory 504 (e.g. forwarding table 504A) and storage 506 (e.g. forwarding logic 506) in node 500 includes IP addresses corresponding to MPLS labels; see FIG. 10, S 1004; see FIG. 11, S 1104,1106; see col. 9, line 50 to col. 10, line 32; see col. 11, line 10-40; see col. 12, line 40-64; see col. 13, line 30-45; see col. 14, line 45-67; see col. 15, line 23-65; see col. 18, line 45-55; see col. 19, line 35-45) while associating the original IP address to the alternate path upon detection of the failure (see FIG. 4,5; see FIG. 10, S 1006,1008,1010; see FIG. 11, S 1108; see col. 9, line 50 to col. 10, line 32; see col. 11, line 10-40; see col. 12, line 40-64; see col. 13, line 30-45; see col. 14, line 45-67; see col. 15, line 23-65; see col. 18, line 45-55; see col. 19, line 35-46); switching IP address with its corresponding new label to the protection path when detecting a failure).

The applicant's broadly claimed invention discloses "a failure along an ingress section of a primary path". Nowhere in the claimed limitation that recites exactly where the failure occurs, what consists of an ingress region. Thus, it is clear that Kanakubo clearly anticipated the applicant broadly claimed invention.

With regards to claims 5, 13 and 21, Kanakubo discloses a network device processing a method (see FIG. 1, LSR-P 1) comprising: means for receiving a failure message (see FIG. 2, LSR 1 receiving/detecting fault occurrence a1); means for re-routing traffic (see FIG. 1, LSR-P performing LSP switching) from a primary path associated with an original IP address (see FIG. 1, from a normal LSP path corresponding to protection point IP address; see page2, paragraph 25-30) to an alternate path (see FIG. 1, to bypass LSP; see page 2, paragraph 29-36) using a forwarding   table (see FIG. 3. using LSP fault indication retrieval table) that

includes IP see FIG. 3, IP address of the protection point) and MPLS routing information (see FIG. 3, entry type and entry), said means for re-routing maintaining the original address (see FIG. 3, LSP fault indication retrieval table associates IP address of protection point to the bypass path; see page 3, paragraph 39-53), the alternate path comprising devices (see FIG. 1, LSR 4 and LSR 5) which maintain the same quality of service as the primary path (see page 1, paragraph 17; see page 3, paragraph 37, 54, see page 4, paragraph 60; bypass LSP comprising LSR 4 and LSR 5 and bypass LSP utilizes the same QoS policy as normal LSP since it is predefined/static LSP) and are not a part of the primary path except for the network device and a destination network device (see FIG. LSR 4 and 5 are not part of the normal LSP except LSR-P 1 and LSR-6; see page 2, paragraph 25-32).

With regards to claims 5, 13 and 21, Dantu discloses a network device (see FIG 3, node 300/340/344/348; see FIG. 4-5, node 400/500; or see FIG. 6, Node 600/616/620/624) processing a method (see FIG. 9-11, Method) comprising: means for receiving (see FIG. 4, Interface I/F 412; see FIG. 5, Interface I/F 512) a failure message (see FIG. 9, S 906, receiving a signal with error indication; see col. 17, line 11 to col. 18, line 11); means for re-routing traffic (see FIG. 4, a combined system of processor 402, memory 404, storage 406 performing switching to protecting path ring in node 400; see col. 9, line 30 to col. 11, line 26; or see FIG. 5, a combined system of processor 502, memory 504, and storage 506 performing switching to protecting path ring in node 500; see col. 12, line 39-64; see col. 13, line 30-40) from a primary path (see FIG. 3, a working path 332; see FIG. 9, step 902; see FIG. 10, step 1002; see col. 9, line 30, line 63; see col. 17, line 10-20,45-55; see col. 10, line 25-36) associated with an original IP address (see FIG. 7, IP address 712/08) to an alternate path (see FIG. 3,6, protection path 336; see FIG. 7, a label 716 with path route) using a forwarding table that includes IP and MPLS routing information (see FIG. 3, Forwarding table 312 and/or routing table 308; see FIG. 4, a combined system of memory 404 (e.g. routing table 404 A and forwarding table 404B) and storage 406 (e.g. table formation 406A and protection switching 406B) in node 400 includes IP addresses corresponding to MPLS labels; or see FIG. 5, a combined system of memory 504 (e.g. forwarding table 504A) and storage 506 (e.g. forwarding logic 506)) in node 500 includes IP addresses corresponding to MPLS labels; see FIG. 10, S 1004, see FIG. 11, S 1104,1106; see col. 9, line 50 to col. 10, line 32; see col. 11, line 10-40; see col. 12, line 40-64; see col. 13, line 30-45; see col. 14, line 45-67; see col. 15, line 23-65; see col. 18, line 45-55; see col. 19, line 35-45), said means for re-routing maintaining the original address (see FIG. 4,5; see FIG. 10, S 1006,1008,1010; see FIG. 11, S 1108; see col. 9, line 50 to col. 10, line 32; see col. 11, line 10-40; see col. 12, line 40-64; see col. 13, line 30-45; see col. 14, line 45-67; see col. 15, line 23-65; see col. 18, line 45-55; see col. 19, line 35-46; switching IP address with its corresponding new label to the protection path), the alternate path comprising devices (see FIG. 3, intermediate nodes 348) which maintain the same quality of service as the primary path (see FIG. 10, S 1106,1008,1010; FIG. 11, S 1104-1108; see col. 9, line 50 to col. 10, line 32; see col. 11, line 10-40; see col. 12, line 40-64; see col. 13, line 30-45; see col. 14, line 45-67; see col. 15, line 23-65; see col. 18, line 45-55; see col. 19, line 35-46; assigning QoS level of IP packet in the working path to the same QoS level in the protection path while creating a new label) and are not a part of the primary path except for the network device and a destination network device (see FIG. 3, intermediate node 348 are not part of the working path; see col. 8, line 60 to col. 9, line 62).

For additional response, please see response to argument in final action, pages 8-11.

In response to arguments with regards to claim 13 on forwarding table is used after receiving the failure message. Since the additional limitation "after said receiving steps" is added in line, it introduces new issue.

INM
12/18/07